

SMOKE-FREE WORKPLACE LAW

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott Daniels**This act modifies the Utah Indoor Clean Air Act. The act amends the exclusions to the act.****The act requires taverns and private clubs to comply with the clean air act.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-38-2, as last amended by Chapter 196, Laws of Utah 1997**26-38-3**, as enacted by Chapter 281, Laws of Utah 1994**26-38-8**, as enacted by Chapter 281, Laws of Utah 1994

REPEALS:

26-38-4, as enacted by Chapter 281, Laws of Utah 1994*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **26-38-2** is amended to read:**26-38-2. Definitions.**

As used in this chapter:

(1) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns or cabarets;

(e) private clubs licensed under Title 32A, Chapter 5, Private Club Liquor License;[(e)] (f) shopping malls, retail stores, grocery stores, or arcades;

[~~(f)~~] (g) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

[~~(g)~~] (h) barber shops, hair salons, or laundromats;

[~~(h)~~] (i) sports or fitness facilities;

[~~(i)~~] (j) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

[~~(j)~~] (k) any child care facility subject to licensure under this title, including those operated in private homes, when any child cared for under that license is present;

[~~(k)~~] (l) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located, but adults may smoke in designated smoking areas in private schools or educational facilities or on the grounds of private schools or facilities during nonschool hours; and

[~~(l)~~] (m) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement.

[~~(2) "Private club" means a private club licensed under Title 32A, Chapter 5, Private Club Liquor Licenses.~~]

[~~(3)~~] (2) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

[~~(4)~~] (3) "Smoking" means the possession of any lighted tobacco product in any form.

Section 2. Section **26-38-3** is amended to read:

26-38-3. Restriction on smoking in public places and in specified places --

Exceptions.

(1) Smoking is prohibited in all enclosed indoor places of public access and publicly owned buildings and offices, except under Subsection (2).

(2) Subsection (1) does not apply to:

(a) (i) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families; or

(ii) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(b) workplace smoking areas as provided in Section 26-38-5;

(c) areas not commonly open to the public of owner-operated businesses having no employees other than the owner-operator;

(d) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas of these facilities, including dining areas and lobby areas; and

~~[(e) taverns, as defined in Section 32A-1-105;]~~

~~[(f) private clubs; and]~~

~~[(g)]~~ (e) separate enclosed smoking areas:

(i) located in the passenger terminals of an international airport located in the city of the first class;

(ii) vented directly to the outdoors; and

(iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

Section 3. Section **26-38-8** is amended to read:

26-38-8. Penalties.

(1) A first violation of Section 26-38-3~~[-26-38-4,]~~ or 26-38-5 is subject to a civil penalty of not more than \$100.

(2) Any second or subsequent violation of Section 26-38-3~~[-26-38-4,]~~ or 26-38-5 is subject to a civil penalty of not less than \$100 and not more than \$500.

Section 4. **Repealer.**

This act repeals:

Section **26-38-4, Adjoining private clubs and public places -- Grandfather provisions.**

Legislative Review Note
as of 1-31-02 1:46 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel